



Michigan Nutrition Association SUPPORT for HB 4688

My name is Judy Stone, I am the Executive Director of Michigan Nutrition Association.

Thank you for the opportunity to testify **in support of 4688**.

I would like to share some national trends and data that give context for this repeal. The current law reflects a different time, a different state of nutrition knowledge and maturity of the profession, a different state of population health.

1. Only 15 states have laws like Michigan's that make it difficult or impossible for non dietitians to legally provide individualized nutrition advice. One of these passed in 2009, the other 14 were passed in the 80's and 90's. Of the 15, one law has an exemption for those giving nutrition advice but not using title, and one has a separate law protecting unlicensed, alternative and complementary practitioners, leaving *only 13 states with laws like Michigan's*.
2. Since 2011, the same year the American Dietetic Association published a document on the competitive threats it was facing (American Dietetic Association House of Delegates Licensure Backgrounder, Fall 2011) 19 bills for statutes or amendments with the same extreme RD-bias have been introduced in thirteen states. 18 either failed to move, were voted down, or vetoed. On the 19th, IL amended the bill to get rid of the RD bias. MI and North Carolina are considering repealing existing laws and North Carolina's state board is being sued for breach of first amendment rights. (Center for Nutrition Advocacy "Disposition of RD-only Licensure in Thirteen States")
3. 29 states and the District of Columbia either through, or without regulation allow unrestricted practice and unrestricted access by consumers to practitioners of their

choosing.

What about harm?

With all the states that allow unlicensed practice, there is almost no data pointing to significant, discernible harm. Anecdotes of harm, theoretical harm, or statements like “anyone can hang out a shingle calling themselves a nutritionist” should not be the basis on which we make laws that significantly restrict access to nutrition services delivered by many kinds of providers. We are generally critical of nutrition care that isn’t based on evidence of results. Why then apply a less rigorous standard of evidence for the claim that unrestricted practice is causing harm?

A handful of FOIA requests on complaints of harm show extraordinarily few complaints of harm and ZERO findings of harm:

Montana, no disciplinary actions since 1998

Delaware btwn 2001 and 2013 had 26 complaints filed—only 4 by members of the public, the rest by Board members or licensees. Of the 26 complaints 14 were dismissed as unfounded, 7 were investigated and dismissed by the AG’s office, and 5 resulted in Cease and Desist’s for unlicensed practice. So **no instances of harm**

Florida is probably the most active state for complaints. 2009-12 **had no allegations of harm**. The DOH in just three of those years devoted 1079 hours or more than half a year of a full time equivalent investigating unlicensed practice with none of these complaints coming from the public.

For perspective we have 107,000 hospitalizations annually in the US from over the counter Ibuprofen (as reported in a 1998 Amer J of Medicine article) or 300 plus deaths from Acetaminophin according to the CDC (data gathered from death certificates and reported in 2013 by ProPublica).

Anyone can buy these medications and self medicate but without this repeal, it will become illegal for most, to advise people how their diet could reduce pain and thus the need for drugs like these because that advice could allegedly hurt someone.

Depending on the source, estimated deaths from obesity range from 26,000 to 300,000 annually. But current law would make it illegal for most all except Michigan's 27.5 dietitians per 100,000 population to help people with their nutrition. (Academy of Nutrition and Dietetics, HOD Background: Continuum of Professional Progression and Growth, Spring 2012 p 36-39)

In terms of job creation, a 2013 article in the J of Labor Economic showed a 20% faster job growth for the industry in states that do not regulate dietetics and nutrition.

"Some evidence suggests that licensing does restrict the supply of workers in regulated occupations. One application focuses on the comparison of occupations that are licensed in some states and not in others. The occupations examined were librarians licensed in 19 states, respiratory therapists licensed in 35 states, and dietitians and nutritionists licensed in 36 states from 1990 to 2000 using US Census data (Kleiner 2006.) Using controls for state characteristics, the multivariate estimates showed that in the states where the occupations were unlicensed, there was a 20% faster growth rate than in states that did license these occupations. Kleiner, Morris and Alan Krueger, "Analyzing the Extent and Influence of Occupational Licensing on the Labor Market" J of Labor Economics, Vol. 31 No. 2,

MNA has never been opposed to a regulatory scheme that truly puts the public first and is created on a level playing field. But there are two false ideas embedded in the existing regulation. The first is that public health is being harmed by the status quo where no one is currently licensed, and the second is that if an activity is in my scope, very few

others are qualified to or should be allowed to do it. This law serves an anti-competitive agenda rather than one of public service.

Since 2006 when the Practice Act was passed thousands of practitioners have been waiting for the proverbial axe to fall and others have been putting career plans on hold. Whether you believe citizens would ultimately be best served with or without a regulation, the existing law is seriously flawed and we urge you to vote to repeal.